

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL ROBOT ) Lead Case No.:  
ANTITRUST LITIGATION, ) 3:21-cv-03825-VC

-----)  
THIS DOCUMENT RELATES TO: )  
ALL CASES )  
-----)

SURGICAL INSTRUMENT SERVICE )  
COMPANY, INC., ) Case No.  
 ) 3:21-cv-03496-VC

Plaintiff, )

vs. )

INTUITIVE SURGICAL, INC., )

Defendant. )  
-----)

\*\*\*HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY\*\*\*

REMOTE PROCEEDINGS OF THE  
DEPOSITION OF STAN HAMILTON  
FRIDAY, NOVEMBER 4, 2022

REPORTED BY NANCY J. MARTIN  
CSR. NO. 9504, RMR, RPR  
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Friday, November 4, 2022

- - -

Remote Deposition of STAN HAMILTON  
beginning at 11:14 a.m., before Nancy J. Martin, a  
Registered Merit Reporter, Certified Shorthand  
Reporter. All parties appeared remotely.

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ALSO PRESENT:

WILL DAVIS, LEGAL VIDEOGRAPHER

1       repairing X and Xi compatible endoWrists?

2           A.   That's far enough back that I couldn't give  
3       you a year or date or anything for that. I mean the  
4       Xi has been in the marketplace for quite a while, and  
5       we -- Rebotix had been considering it for quite a  
6       while. There were activities to do preliminary work  
7       and that kind of thing, which goes back several years,  
8       and beyond that, I just don't have a clear memory at  
9       this time for the year.

10           Q.   Would you say that you were considering  
11       repairing Xi endoWrists as far back as 2017?

12           A.   That is certainly possible, yes.

13           Q.   When would Rebotix have started to repair X  
14       and Xi compatible endoWrists in a world without  
15       Intuitive's anticompetitive conduct?

16           MR. ERWIG:   Objection.   Speculation.

17           THE WITNESS:   Answer?

18       BY MR. CORRIGAN:

19           Q.   Yes, please.

20           A.   Okay. I can -- my best thought around that  
21       would be that it could have been as early as 2019 or  
22       so, around there, yeah.

23           Q.   I read Mr. Pap had submitted a declaration in  
24       that case, and in that declaration he stated that  
25       Rebotix had spent \$5 million in R&D for S and Si

1       you're describing, yes.

2       BY MR. LAZEROW:

3               Q.   Does the term interceptor chip mean anything  
4       to you in the context of Rebotix's efforts with the Si  
5       endoWrists?

6               A.   Yes.   It was mainly just an internal name as  
7       part of the development project that ended up being  
8       externalized, but yes.

9               Q.   The -- the process -- does -- sitting here  
10       today, does Rebotix have a process that it is  
11       following to try to reset Xi endoWrist instruments?

12              MR. ERWIG:   Object to form.

13              THE WITNESS:   I would say the way to answer  
14       that most clearly is that there is a process under  
15       development which has not been released yet.

16       BY MR. LAZEROW:

17              Q.   Does that process include the use of the  
18       interceptor chip?

19              A.   No.

20              Q.   Has -- sitting here today, has Rebotix  
21       figured out how to circumvent the usage counter on Xi  
22       endoWrist instruments?

23              MR. ERWIG:   Objection.   Form.

24              THE WITNESS:   Substantially, yes.

25       BY MR. LAZEROW:

1 Q. But not 100 percent?

2 A. Meaning if the process is fully developed and  
3 ready to implement, not 100 percent.

4 Q. What is missing from the process in order --  
5 what is missing from the process to fully develop and  
6 implement the ability to reset the usage of Xi  
7 endoWrist instruments?

8 MR. ERWIG: Object to form.

9 THE WITNESS: Final procedures, testing,  
10 validation, same things we had to go through for the  
11 Si. All the testing that has to be done, and is now  
12 in progress, but it takes time.

13 BY MR. LAZEROW:

14 Q. I want to make sure I understand your  
15 testimony.

16 Are you saying that from a technical  
17 standpoint, Rebotix has actually reset the usage  
18 calendar of an Xi endoWrist instrument as of today?

19 MR. ERWIG: Object to form.

20 THE WITNESS: I'm not sure how you're even  
21 defining that. Have we done that in the marketplace?  
22 I said no. Have we done the technical equivalent of  
23 that. I said yes. And there are many steps between  
24 the technical equivalent and releasing it into the  
25 marketplace.

1 BY MR. LAZEROW:

2 Q. I'm sorry. Were you done? I apologize.

3 Were you done with your answer?

4 A. Uh-huh.

5 Q. So I'm not talking about release in the  
6 marketplace. I'm not talking about anything related  
7 to marketing. I'm only focusing from a technical  
8 aspect in your work -- in the work that Rebotix has  
9 done, whether Rebotix has, in fact, technologically  
10 speaking, from a technical standpoint, has gotten an  
11 endoWrist, and Xi endoWrist and has reset the usage  
12 counter so that it has the original number of lives  
13 that were on it when it was sold new?

14 MR. CORRIGAN: Object to the form.

15 MR. ERWIG: Same objection.

16 THE WITNESS: Again, we have done the  
17 technical part of that process. So in other words,  
18 doing something on a lab bench, doing something in the  
19 final validated form, validating with a robot, those  
20 kinds of things. Technically, the process of  
21 modifying locations in the RFID at now memory chip,  
22 yes, has been done.

23 MR. ERWIG: Also, I just want to quickly  
24 interject that we're going to mark this "Attorney's  
25 Eyes Only."

1 BY MR. LAZEROW:

2 Q. So I just want to make sure I understand  
3 that -- what you're saying because I'm not sure I do,  
4 to be frank.

5 I just want to know has Rebotix taken an  
6 endoWrist, an Xi endoWrist and been able, on its bench  
7 or in its lab, to go from, you know -- and add more  
8 lives to it?

9 MR. ERWIG: Hang on, Stan.

10 Objection to form. Asked and answered.

11 BY MR. LAZEROW:

12 Q. You can answer the question.

13 A. You'll have to be more specific about the --  
14 you're trying to ask a technical question, and I'm  
15 trying to answer you with a technical answer. That's  
16 the best answer I can give you.

17 We understand the numbering of exactly where  
18 the use calendar is on the lab bench. That has all  
19 been analyzed, and I certainly hope this is attorney's  
20 eyes only, and that is respected. And, yes, we have  
21 done that. We know exactly where the use calendar is.  
22 On the app mobile device, we have the locations. We  
23 do know exactly how to do it from a technical  
24 perspective on the lab bench. That's all I can say  
25 about it, and that should be enough.



1 Q. So from a technical perspective today -- as  
2 of today, Rebotix has figured out how to reset the  
3 usage counter for Xi instruments.

4 Is that what you're saying?

5 MR. CORRIGAN: Objection. Asked and  
6 answered.

7 MR. ERWIG: Same objection.

8 THE WITNESS: I agree. Yes. I answered.

9 BY MR. LAZEROW:

10 Q. Is the answer "yes"?

11 A. Yes.

12 Q. Okay. When did Rebotix start the process of  
13 trying to reset endoWrist Xi instruments?

14 A. I -- I can't give you a date on that because  
15 it started years ago in terms of beginning the process  
16 of looking into what the technology was, you know,  
17 things like understanding how the interface worked and  
18 what the challenges would be. That started years ago.

19 The focus was on the Si, you know, to get out  
20 into the marketplace and actually see what happened,  
21 where we were at in the marketplace, and from a  
22 process development perspective that kind of thing,  
23 focus was on the Si. But looking into the Xi, that  
24 goes back years.

25 Q. Was there a time when the focus shifted to

1 working on the Xi?

2 A. From a development perspective?

3 Q. Yes.

4 A. Yes, because Si development was done.

5 However, the speed of development for the development  
6 effort itself required funding, financing, resources,  
7 and external -- coordinating things like external labs  
8 and test labs, external certification houses and all  
9 those kinds of things that we used before.

10 And so that's certainly restricted the -- the  
11 ability of the project to move forward in a serious  
12 way because that -- that funding was not coming from  
13 the Si as it had been planned. You know, again,  
14 despite the fact that there was very, very good  
15 acceptance in the hospital, we did have processes that  
16 went into place, and none of the hospitals or a number  
17 of customers in large hospital groups and many, many  
18 that came on board did this, and this never ever  
19 really develop. Despite all that demand, it never  
20 really developed because it was restricted.

21 And so the funding -- the business plan was  
22 clearly to fund -- I don't think that's any secret.  
23 The business plan was to fund the Xi development,  
24 which we're referring to from the Si business, and  
25 that was certainly what affected the timing.

1           So even though I suggested it was a year ago,  
2           it was and I don't remember exactly when because it  
3           was quite -- you know, several years ago when we began  
4           looking into doing the Xi, but it clearly did involve  
5           resources, technical, regulatory validation,  
6           certification, all those same resources were required  
7           again.

8           And so in that aspect there are delays, and  
9           also what point was there in investing all that money  
10          in moving forward if the same things that Intuitive  
11          was able to do to -- to suppress our business would  
12          have been done for the Xi also.   Same story.

13          Q.   When does Rebotix expect to be done and have  
14          a final validated form of the process to reset Xi  
15          endoWrist instruments?

16               MR. ERWIG:   Object to form.

17               THE WITNESS:   Next year.   This coming year.  
18          2023.

19          BY MR. LAZEROW:

20          Q.   Can you -- do you have any idea which part of  
21          2023 you're thinking of?

22          A.   I can't give you a specific date at this  
23          time.   It depends on other things like external test  
24          labs and certification, for example.   There are many  
25          things that affect the schedule and availability of